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FEDERAL COMMUNICATIONS COMMISSION  
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February 14, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW.  
Washington, D.C. 20554

Re: CC Docket Nos.: 96-262/94-1; 91-213; and 96-263

Dear Mr. Caton:

Pursuant to the Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry in the above captioned matter, enclosed please find an original and sixteen copies of the Reply Comments of Bankers Clearinghouse, Mastercard International, Incorporated and Visa, U.S.A., Inc. Please date stamp the additional copy and return it with our messenger.

If you have any questions regarding this filing, please do not hesitate to call.

Sincerely,

*Laura McDonald*

Laura F. H. McDonald

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEB 14 1997

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers	)	
	)	
Transport Rate Structure	)	CC Docket No. 91-213
and Pricing	)	
	)	
Usage of the Public Switched	)	CC Docket No. 96-263
Network by Information Service	)	
and Internet Access Providers	)	

**REPLY COMMENTS OF BANKERS CLEARING HOUSE,  
MASTERCARD INTERNATIONAL INCORPORATED, THE NEW YORK  
CLEARING HOUSE ASSOCIATION AND VISA, U.S.A., INC.**

The New York Clearing House Association, Bankers Clearing House, VISA, U.S.A., Inc., and MasterCard International Incorporated (collectively the "Financial Service Providers") submit the following reply comments in the above-captioned rulemaking.<sup>1</sup> Like the Financial Service Providers' initial comments, these reply comments focus on call setup charges and SS7 signaling rate elements.

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<sup>1</sup> Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Notice of Proposed Rulemaking, CC Docket Nos. 96-262, 94-1, 91-213 (rel. Dec. 24, 1996) ("NPRM").

## ARGUMENT

### I. SEPARATE CALL SETUP CHARGES ARE INEFFICIENT AND INAPPROPRIATE

Many parties<sup>2</sup> joined the Financial Service Providers in opposing proposals to institute “call setup” charges to recover the ILECs’ costs of “establishing a transmission path over which a phone call will be routed.”<sup>3</sup> The parties’ concerns fall into three categories: (1) the costs of call setup are *de minimis* and/or difficult to separate out;<sup>4</sup> (2) the costs of measuring, tracking, and billing for call setup would far outweigh the cost of call setup;<sup>5</sup> and (3) call setup charges send the wrong signals to the market.<sup>6</sup> Several LECs also requested

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<sup>2</sup> See, e.g., Comments of: Cable and Wireless, Inc. at 13; CompTel at 31; Frontier at 17; Sprint at 18. *But, cf.* Comments of the California Public Utilities Commission (“CPUC”) at 6; Comments of Pacific Telesis Group (“PacTel”) at 66 - 68; Comments of Citizens Utilities at 30. The CPUC and PacTel indicate that California established call setup charges for intrastate switched access in 1995 based on the CPUC’s determination that call setup charges were more reflective of how costs are incurred. But, PacTel and the CPUC provide conclusory support, not evidence, in support of their argument. If the Commission orders a full investigation, as suggested in the Financial Service Providers’ initial comments, the California experience can be examined to see if California’s experiment makes sense on a national basis.

<sup>3</sup> NPRM at ¶75. ILECs currently recover the costs associated with call setup through per-minute local switching charges or the Transport Interconnection Charge (“TIC”).

<sup>4</sup> See, e.g., Comments of Cable and Wireless at 13-15; Comments of MCI at 82-83; and Comments of Sprint at 18 - 20.

<sup>5</sup> See, e.g., Comments of Cable and Wireless at 13-15; Comments of Teleport at 22 (The FCC should ensure that the costs of measuring and billing are not disproportionate to the amount of the bill); Comments of U.S. West at 57 - 59 (Although call setup charges may more closely reflect how costs are incurred, they would require billing system changes and would not result in overall revenue changes for US West).

<sup>6</sup> See, e.g., Comments of AT&T at 55 - 57 (if call setup charges are adopted without adjusting the productivity factor, an ILEC might obtain more revenues merely by charging on message volumes as opposed to charging on a minute of use basis).

that the FCC reject mandatory call setup proposals.<sup>7</sup> These concerns counsel against mandating or requiring call setup charges, particularly without the scrutiny suggested by the Financial Service Providers in their initial comments.<sup>8</sup>

Beyond these points, these comments address aspects of call setup charges that the Financial Service Providers did not discuss in their initial comments.

A. Call Setup Charges on Call Attempts are Not Justified

The NPRM asked whether costs associated with “call attempts” as well as completed calls should be recovered. The Financial Service Providers join those that argue that cost recovery based on call attempts is bad policy and bad practice.

First, if call setup costs are *de minimis*, call *attempt* costs are trivial, particularly in a world in which out-of-band signaling allows the likelihood of a call’s completion to be evaluated before a transmission path is established.

Second, as ACTA points out, if ILECs are allowed to bill for call attempts (which are nearly impossible for IXC’s to track and for carriers and customers to audit) there is enormous potential for unauditable errors and even

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<sup>7</sup> See, e.g., Comments of BellSouth at 71; Comments of Bell Atlantic and NYNEX at 39; and Comments of US West at 58.

<sup>8</sup> The Financial Service Providers argued that before allowing call setup charges, the FCC must ensure that call setup charges are justified, not collected through some other rate element, and economically efficient. This requires an investigation into the costs associated with creating, implementing and maintaining the systems needed to measure and bill for call setup as well as determining whether the actual call setup costs can be divorced from the underlying switching and SS7 costs. It also requires that the ILECs submit appropriate cost data for public scrutiny.

fraud.<sup>9</sup> We do not suggest that an ILEC would engage in willful malfeasance, but ACTA's underlying point is well taken -- even in the most honest of worlds, billing errors would go unnoticed and unchallenged, leaving customers to pay significant sums for calls that were not completed and may never have been attempted.

Third, if ILECs can recover for call attempts, including those that fail due to inadequate ILEC capacity, their incentives to engineer networks to provide quality services will be reduced.<sup>10</sup> Some larger users *may* be able to negotiate clauses to address this concern, but smaller businesses and residential users will not.<sup>11</sup>

Finally, the Financial Service Providers question whether it would serve the public interest -- and comport with common sense -- to institute a policy that allows carriers to recover for unconnected calls. Even the most successful shoe stores do not require their customers to pay to *try on* shoes.

B. The FCC Should Adopt a Uniform Approach

Although few parties support a separate and *mandatory* charge for call setup, a number (primarily ILECs) suggest that the ILECs be given the

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<sup>9</sup> Comments of ACTA at 7 - 9.

<sup>10</sup> See Comments of MCI at 82 - 83.

<sup>11</sup> Given the tracking and auditing issues raised above, and the fact that most business do not keep close track of calls that were uncompleted because of busy lines, even larger users who negotiate clauses would have little protection.

flexibility to impose call setup charges if they so desire. This approach should be rejected.

First, none of the problems or concerns identified above or in the Financial Services Provider's initial comments would be cured by making call setup charges voluntary rather than mandatory.

Second, lack of uniformity would exacerbate billing, auditing, and costing concerns. It is hard enough now to audit and reconcile the bills of a call center that receives a million 800 calls per day from around the country – even when the cost of each call does not vary with distance or place of origin. One can only imagine the difficulties that would attend cost tracking and reconciliation of calls varied in cost by state of origin, and indeed had different cost *profiles* by state of origin.

Finally, call attempt charges would add significantly to the costs incurred by this Commission (and by end users) in an effort to ensure that no ILEC is receiving more than its allowable costs plus a fair return. Non-uniformity in this area would, for example, complicate efforts to assess the reasonableness of rate elements by comparing them across ILECs.

C. Peak/Off Peak Pricing Is a Bad Idea

Virtually every commenting party agrees that mandating peak/off peak pricing for switching is fruitless because it would be problematic to

implement and subject to changing use patterns.<sup>12</sup> It also would be complex and difficult to bill. It is worth noting in this regard that the trend in large interexchange agreements has been away from peak/off-peak pricing and toward fully postalized rates. Given the legitimate and compelling billing and auditing problems raised by the parties, the Financial Service Providers urge the Commission to reject proposals for peak/off peak pricing for the switching elements of access charges.

## II. THE FCC SHOULD REJECT PROPOSED CHANGES TO CURRENT SS7 COST RECOVERY CHARGES.

Echoing an approach taken in a waiver granted to Ameritech in which it was allowed to recover SS7 costs through explicit rate elements,<sup>13</sup> the NPRM proposes establishing a new rate structure that would require ILECs to recover SS7 costs through four primary charges rather than as part of the TIC and local switching charges. The new rate structure for SS7 signaling would consist of the following rate elements: (1) Signal Link -- continued recovery of dedicated network access line (DNAL) costs on a flat-rated basis;<sup>14</sup> (2) STP Port Termination -- continued recovery of the cost of the signal transfer point (STP) port that connects with a customer's DNAL through a flat-rated charge;<sup>15</sup> (3)

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<sup>12</sup> See, e.g., Comments of ACTA at 8-9; Comments of AT&T at 56-57; Comments of Cable & Wireless at 14-15; Comments of Citizens Utilities Co. at 30; Comments of MCI at 83; Comments of LCI at 25-27; Comments of US West at 58-59; and Comments of Sprint at 20.

<sup>13</sup> NPRM at ¶ 127.

<sup>14</sup> *Id.* at ¶ 128.

<sup>15</sup> *Id.* at ¶ 129.

Signal Transport – a new usage-sensitive charge to recover the cost of circuits that carry SS7 queries between STPs, switches, and service control points (“SCPs”) within ILEC signaling networks;<sup>16</sup> and (4) Signal Switching – a new usage-sensitive, per-query charge, perhaps varying by peak and off-peak periods, to recover costs relating to STP processing and switching.<sup>17</sup> For the reasons set forth below, this proposal should be rejected.

A. The Record Suggests that The Ameritech Approach is Not Cost Efficient.

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The Financial Service Providers support rate structures that reflect the manner in which costs are incurred and recognize the need to reassess the method for recovering the costs of SS7 services, but they do not support change for the sake of change. As pointed out in their initial comments, changing the current recovery mechanisms may not be justified. Apparently, many other parties agree.

Two problems with the NPRM's proposal for the recovery of SS7 costs are repeatedly mentioned in the comments. First, the new structure may not work in all SS7 environments because it is difficult and costly to measure usage and support the administration needed to collect the proposed SS7 access charges.<sup>18</sup> Second, the new regime could (particularly if not closely

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<sup>16</sup> *Id.* at ¶ 131.

<sup>17</sup> *Id.* at ¶ 133.

<sup>18</sup> See, e.g., Comments Bell South at 81-83; Comments of CompTel at 31 - 32.



scrutinized) result in higher – not lower -- costs to carriers and end users. Both Bell South and USTA point out that (a) the metering equipment required to implement the FCC's proposal is expensive and (b) tracking SS7 usage would be difficult. Other parties, such as Sprint, point out that the Ameritech model is flawed because it would allow an ILEC to impose both non-recurring and recurring charges for passing optional parameters in an initial address message, even though ILECs incur no additional cost of any significance in passing these parameters to IXCs. The inevitable result is an arbitrary structure with widely varying liability for comparable service and windfall recoveries for certain ILECs. (Sprint notes that it currently pays Ameritech three times what it pays PacBell for SS7 related services, even though Sprint's traffic volume is higher in PacBell's region.)<sup>19</sup> This is exactly the result that should be avoided.

B. Carriers Should Bear the Costs Of Their SS7 Systems

The Financial Service Providers support WorldCom's proposal that SS7 costs be removed from access charges altogether, and be recovered through what amounts to "bill and keep." As WorldCom points out, communications networks are interconnected, and carriers benefit from each other's SS7 networks. IXCs use the ILECs' services for long distance service and the ILECs use the IXCs for vertical features such as caller ID.<sup>20</sup> The FCC

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<sup>19</sup> See Comments of Sprint at 32.

<sup>20</sup> See Comments of WorldCom at 56-59 and *Rules and Policies Regarding Calling Number Identification Service -- Caller ID*, CC Dkt. No. 91-281, Report and Order, 9 FCC Rcd 1764, 1768 (1994) ("Caller ID Order"), *aff'd on recon.*, 10 FCC Rcd 11700, 11712-17 (1995).

does not allow IXC's to recover their SS7 costs from ILEC's who request SS7 information for the ILEC's vertical services, and it therefore is reasonable to prohibit the ILEC's from recovering analogous costs from IXC's. Instead all carriers should be required to connect other carriers to their systems and to recover the costs of their SS7 infrastructure from their own end users.

This approach is simple, logical and consistent with the spirit of the Act and the Commission's rationale for requiring the transmission of CPN without additional charge. In its decisions concerning caller ID services, the FCC stated that transmitting CPN at no additional cost would ensure the unimpeded flow of information and the greatest diversity of offerings; improve productivity; lower incremental costs; create new employment and investment opportunities; incent additional technology investments; and reduce opportunities for fraud.<sup>21</sup> The same logic applies here, and the Financial Service Providers urge the Commission to adopt WorldCom's proposal.

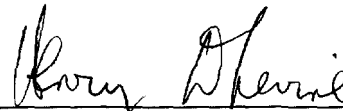
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<sup>21</sup> Caller ID Order at ¶ 23.

## CONCLUSION

The current record does not support or justify the imposition of call setup charges or the adoption of the NPRM's modified Ameritech approach to SS7 charges. Accordingly, the Financial Service Providers urge the Commission to prohibit the separate imposition of call setup charges and to remove SS7 costs from access charges.

Respectfully submitted,



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Dated: February 14, 1997

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